IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL REVISION No. 56 of 2005

MAHADEV GARG
V/S
RAJASTHAN STATE AGRICULTURE MARKETING BO

Mr. JK BHAIYA, for the appellant / petitioner

Date of Order : 21.2.2005

HON'BLE N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

It is contended by learned counsel that the trial Court has wrongly entertained the application u/s 8 of the Arbitration and Conciliation Act, 1996, as the application was not accompanied by the original, or certified copy of the arbitration agreement.

Learned trial Court has noticed that during course of arguments photostat certified copy of the agreement was produced, which remedies the objection. On this being pointed out, it is contended that the copy produced was only photostat copy, and not the certified copy. Suffice it to say, firstly, that this is not the objection taken in the memo of revision, and secondly, even if it is a photostat copy, in view of the judgment of Calcutta High Court in ITC Classic Finance Ltd. Vs. Grapco Mining and Co. Ltd.,& Anr., reported in AIR 1997 Calcutta 397, when the correctness of the copy produced is not disputed, it cannot be said that there is non-compliance of Section 8.

The other objection raised is, that the agreement itself was in question, and therefore, the matter was required to be decided by the Court itself, and could not be referred to arbitrator. In this regard, it would suffice to observe, that the learned trial Court has

clearly held that "यह स्वीकृत स्थिति है कि इकरारनामा में आर्बीट्रेशन क्लाज है". As such, it cannot be said that there is no arbitration clause, and once the arbitration clause is there, the other aspects of the agreement, including its validity, etc. can very-well be gone into by the arbitrator.

The third objection raised is, that according to the agreement, the number of arbitrators agreed upon is even numbered, which could not be. In this regard, I may straightway rely upon the judgment of Hon'ble the Supreme Court, in M.M.T.C. Limited Vs. Sterlite Industries (India) Ltd., reported in 1996(6) SCC 716, wherein it has been held, that merely on account of the fact that even number of arbitrators are given, the arbitration agreement cannot be said to be void.

Thus, I do not find any jurisdictional error on the part of the learned trial Court in passing the impugned order.

The revision petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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